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FLORIDA
(OF COUNSEL)

RECEIVED

MAY 17 2019

Office of the
Northwest Region Counsel

May 16, 2019

VIA E-MAIL AND FEDERAL EXPRESS - OVERNIGHT DELIVERY

Assistant Regional Counsel
Florida Department of Children & Families
160 Governmental Center, Suite 601
Pensacola, Florida 32502
E-mail: Regina.Pleasant@myfamilies.com

Re: Department of Children & Families v. Anne & Tammie Cyr
DCF Provider No.: 100050806; DCF File No.: Unknown
Our File No.: 2519/001
FORWARDING OF PETITION FOR FORMAL HEARING

To Whom It May Concern:

We have the honor and privilege of having been retained to represent Anne and Tammie Cyr, in the above-referenced matter.

Please do not attempt to contact Anne or Tammie Cyr except through our office.

In accordance with Section 120.57(1), Florida Statutes, enclosed please find a Petition for Formal Hearing in the above-referenced matter.

If you have any questions, please contact me at the numbers listed above. If I am not available, you may speak with Achal Aggarwal, another attorney with this firm, who is also familiar with this case.

Assistant Regional Counsel
Florida Department of Children & Families
May 16, 2019
- Page 2 -

Thank you very much for your cooperation in this matter.

Sincerely,

THE HEALING LAW FIRM, by:

LANCE LEIDER, J.D., LL.M.

encl: Petition for Formal Hearing

cc: Anne & Tammie Cyr

LOL/pa

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**STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
TALLAHASSEE, FLORIDA**

**DEPARTMENT OF CHILDREN &
FAMILIES,**

<p>Petitioner,</p> <p>vs.</p> <p>ANNE & TAMMIE CYR,</p> <p>Respondents.</p> <p>_____ /</p>	<p>DCF Provider No.: 100050806 DCF File No.: Unknown Facility Type: Medical Foster Home</p>
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PETITION FOR FORMAL HEARING

COMES NOW Respondents, Anne and Tammie Cyr, by and through their undersigned counsel, and pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 28-106.201, Florida Administrative Code, requests a formal administrative hearing in response to the State of Florida, Department of Children and Families' (hereinafter referred to as "Agency" or "DCF") Foster Home License Revocation, dated April 26, 2019, Exhibit "1". Pursuant to Rule 28-106.201, Florida Administrative Code, the following information is provided in support of this Petition:

1. The name and address of the Respondents and the Agency Case Number are:

Anne & Tammie Cyr
958 Grindstone Lane
Cantonment, Florida 32533
Cell phone: (850) 525-0629
E-mail: anniecyr13@gmail.com
Provider No.: 100050806

2. The name and address of the Respondents' counsel are:

Lance O. Leider, J.D., LL.M.
Achal Aggarwal, J.D., M.B.A.

The Health Law Firm
1101 Douglas Avenue
Suite 1000
Altamonte Springs, Florida 32714
Telephone: (407) 331-6620
Telefax: (407) 331-3030
E-mail: LLeider@TheHealthLawFirm.com
AA@arwal@TheHealthLawFirm.com
CourtFilings@TheHealthLawFirm.com

3. The Petitioner/Agency and its file number of the proposed action:

Florida Department of Children & Families
160 Governmental Center
Suite 601
Pensacola, Florida 32502
File No.: Unknown (not given on notice)

4. Effect on Petitioner's Substantial Interests

Respondents' substantial interests will be affected by the Agency's revocation of their foster home license because Respondents have a property right in their licenses and loss of such license will result in a loss of income and ability to provide medical foster home services to the children of Escambia County and the surrounding areas. Revocation of a license is a *per se* curtailment and negative effect on a substantial interest.

5. Statement of when Notice of the Agency's proposed action was received:

Respondents received the Agency's April 26, 2019, notice of revocation on Saturday, April 27, 2019.

6. The following are the disputed issues of material fact:

Respondents dispute the following issues of material fact alleged in the notice of revocation, and specifically deny that:

- a. The Agency verified any reports of abuse, neglect, exploitation, or abandonment in any of the six (6) alleged abuse reports;
- b. Respondents denied any necessary or appropriate counseling or parenting education from the Children's Home Society or any other similar organization;
- c. Anne Cyr spans with a belt, hand, or a "big white spoon";
- d. Either Respondent engaged in corporal punishment of any foster child in violation of Agency regulations;
- e. Either Respondent derogatorily used the term "feral" to describe any children in their care;
- f. The use of a descriptor like "feral" constitutes grounds for revocation of a license;
- g. Respondents threatened one or more children with return to their biological parents if they did not behave;
- h. Respondents unduly delayed in obtaining assessments for one or more children in their care;
- i. Respondents have not maintained a level of respect for one or more children's biological families;
- j. Respondents exhibited a lack of cooperation regarding visitations with biological parents;
- k. Respondents "expressed an unwillingness to follow the court's orders regarding visitation;"

- l. Respondents failed to abide by the following provisions of a Shared Responsibility Agreement:
 - i. Maintaining a level of respect for the biological family members of the children in your home and doing everything possible to help the family and the child maintain a positive, healthy bond;
 - ii. Assisting Case Management staff in setting up visits with parents, relatives and siblings by being as flexible as possible and providing information about your family's preferences; and
 - iii. Providing opportunities for the children to have contact and communication with family members, friends and other people who are important to them. The only exception comes when the Court specifically bans contact with an individual.
- m. Respondents violated any part of Section/Paragraph 4 of the alleged Partnership Plan Agreement;
- n. Respondents violated any provision of Chapter 409 (this denial is necessarily general in nature as the notice failed to allege any specific violation);
- o. Respondents violated Rules 65C-13.030(1)(d), (3)(a)-(b), (d), & (i), Florida Administrative Code;
- p. Respondents' alleged violations could not be cured by a corrective action plan; and
- q. Respondents jeopardized the safety and well-being of any child.

7. Statement of Ultimate Facts which Require the Agency Reverse its Decision

- a. The Agency did not verify any finding of abuse, neglect, exploitation, or abandonment of a child in any of the six (6) cases alleged to have been reported in the last two license years;
- b. The reports to the Agency are false and are the retaliatory actions of a former employee of Respondents which were precipitated by the employee's termination following a complete and unforeseeable nervous break down/psychotic episode;
- c. Respondents did not deny any necessary or appropriate counseling or parenting education from the Children's Home Society or any other similar organization;
- d. Anne Cyr does not spank with a belt, hand, or a "big white spoon";
- e. Neither Respondent engages in corporal punishment of any foster child in violation of Agency regulations;
- f. Neither Respondent derogatorily used the term "feral" to describe any children in their care;
- g. The use of a descriptor like "feral", regardless of the context surrounding its use, does not constitute grounds for revocation of a license;
- h. Respondents never threatened one or more children with return to their biological parents if they did not behave;
- i. Respondents never unduly delayed in obtaining assessments for one or more

children in their care, as the area is a health care professional shortage area and there was a significant backlog for appointments with the necessary physician;

- j. Respondents have always maintained an appropriate level of respect for their foster and adopted children's biological families;
- k. Respondents always cooperated with visitations by biological parents;
- l. Respondents always followed court orders and never "expressed an unwillingness to follow the court's orders regarding visitation";
- m. Respondents did not fail to abide by the following provisions of a Shared Responsibility Agreement:
 - i. Maintaining a level of respect for the biological family members of the children in your home and doing everything possible to help the family and the child maintain a positive, healthy bond;
 - ii. Assisting Case Management staff in setting up visits with parents, relatives and siblings by being as flexible as possible and providing information about your family's preferences; and
 - iii. Providing opportunities for the children to have contact and communication with family members, friends and other people who are important to them. The only exception comes when the Court specifically bans contact with an individual.
- n Respondents did not violate any part of Section/Paragraph 4 of the alleged Partnership Plan Agreement;

- o. Respondents did not violate any provision of Chapter 409 (this denial is necessarily general in nature as the notice failed to allege any specific violation);
- p Respondents did not violate Rules 65C-13.030(1)(d), (3)(a)-(b), (d), & (i), Florida Administrative Code;
- q Respondents' were never in need of a corrective action plan because they did not violate any substantive Agency rule; and
- r Respondents have not ever jeopardized the safety and well-being of any child.

8. Applicable Statutes and Rules

Petitioner pleads all statutes and rules referred to in Respondent Agency's Notice of Intent to Deny and Amended Notice of Intent to Deny. Additionally, Petitioner specifically pleads the following in its support:

- a. Chapter 120, Florida Statutes,
- b. Chapter 409, Florida Statutes;
- c. Rule Chapter 29, Florida Administrative Code;
- d. Rule Chapter 65C, Florida Administrative Code; and
- e. Any other Florida statute or Administrative Code Rule applicable to the facts and issues in this case (Respondents cannot identify all provisions as the Agency failed to identify the grounds for its revocation with particularity).

9. Mediation Requested:

Respondents, to the extent available, requests mediation of this matter.

10. Relation of Facts to Law:

Respondents state the denial of the facts above, and the statement of the actual facts, as opposed to the erroneous ones alleged, do not amount to a violation of any Florida Statute, Administrative Rule, or other similar provision of law governing this case. Respondents deny all material facts alleged by the Agency. So, to the extent the Agency bears the burden of proof in this case, Respondents believe the Agency cannot carry its burden without demonstrable evidence Respondents committed one or more acts or omissions which resulted in a violation of Florida Law.

11. Relief requested:

Petitioner requests the following relief:

- a. This case be forwarded to the Division of Administrative Hearings for assignment of an Administrative Law Judge;
- b. The agency attempt to mediate a resolution of this matter in a civil, earnest, and good faith manner;
- c. That a hearing be conducted in this matter;
- d. That a formal administrative hearing be conducted in Escambia County, Florida, the area of the residence of the Respondents and the local office of the agency;
- e. That the Agency be required to prove its case against the Petitioner by clear and convincing evidence;

- f. That the allegations set forth in the attached Notice of Intent to Deny, Exhibit "1," be found to be unsupported and dismissed; and
- g. That a prompt mediation be held in this matter.

CERTIFICATE OF SERVICE/FILING

I HEREBY CERTIFY that this document was filed and served as follows:

Original filed via Federal Express Overnight and E-mail to:

Assistant Regional Counsel
Florida Department of Children & Families
160 Governmental Center
Suite 601
Pensacola, Florida 32502
E-mail: Regina.Pleasant@m.flfamilies.com

this 16th day of May 2019.

LANCE O. LEIDER, J.D., LL.M.

Florida Bar No.: 96408

Primary E-mail: LLeider@TheHealthLawFirm.com

Secondary E-mail: CourtFilings@TheHealthLawFirm.com

ACHA AGGARWAL, J.D., M.B.A.

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THE HEALTH LAW FIRM

1101 Douglas Avenue

Altamonte Springs, Florida 32714

Telephone: (407) 331-6620

Telefax: (407) 331-3030

ATTORNEYS FOR RESPONDENTS

ANNE & TAMMIE CYR

Attachment: Exhibit "1" - Notice of Intent to Deny, dated April 26, 2019

LOL/pa

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